

ORIGINAL FILED
MAY 15 2007
RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

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C07 02575

RMW

6
7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 vs.

13 DANIEL RAMOS-GIL,

14 Defendant.
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No. CR-06-00784 RMW

DEFENDANT'S SUPPLEMENTAL
MOTION TO CORRECT SENTENCE
PURSUANT TO 28 U.S.C §2255, OR, IN
THE ALTERNATIVE F.R.C.P. 35(a)

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17 On January 23, 2007 this court held a hearing regarding Mr. Ramos-Gil's request for re-
18 sentencing pursuant to F.R.C.P. 35(a). At that hearing the court indicated that it would treat the
19 request as having been made pursuant to 28 U.S.C. §2255 and indicated an inclination to re-
20 sentence the defendant to 30 months, a term which both parties agree would represent the low
21 end of the range of an accurate calculation of the Sentencing Guidelines applicable to this case.
22 The case was continued in part because Mr. Ramos-Gil indicated that, in addition to the claim of
23 sentencing error raised by his original Rule 35(a) motion, he wished to further challenge the
24 sentence on the basis that the Guideline included an adjustment for a 1992 conviction which he
25 denied as of the January 23 hearing..
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Subsequent to the January 23, 2007 hearing, the government has provided additional

1 discovery regarding the disputed conviction. After reviewing the discovery, Mr. Ramos-Gil
2 withdraws his denial of the conviction and agrees that a sentence of 30 months represents both
3 the low end of the applicable guideline range in his case, and a reasonable sentence pursuant to
4 18 U.S.C. §3553(a). Mr. Ramos-Gil renews his request for re-sentencing whether under the
5 court's proposed basis, treating his earlier motion as a Petition made pursuant to 28 U.S.C.
6 §2255, or as a correction of sentence pursuant to F.R.C.P. 35(a).

7 Dated: MARCH 16, 2007

8 Respectfully submitted,

9 BARRY J. PORTMAN
10 Federal Public Defender

11 /S/

12 JAY RORTY
13 Assistant Federal Public Defender
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